

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

UNITED STATES DISTRICT COURT

for the

Middle District of PennsylvaniaScranton DivisionDemontray Ward #45499-379

Case No. _____

(to be filled in by the Clerk's Office)

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Dr. ENIGK, Lieutenant Troutman, Lt. Leonwicz
Lt. Stuart, Officer Haubert

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

FILED
SCRANTON

APR 14 2020

PER [Signature]
DEPUTY CLERKCOMPLAINT FOR VIOLATION OF CIVIL RIGHTS
(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name Demontray Ward # 45499-379
 All other names by which
 you have been known: _____
 ID Number Register #: 45499-379
 Current Institution Administrative United States Penitentiary
 Address THOMSON P.O. Box
Thomson Illinois 61285
City State Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name Doctor: ENIGK
 Job or Title (*if known*) Psychiatric Doctor
 Shield Number Unknown
 Employer UNITED STATES PENITENTIARY
 Address Post office Box 1000
Lewisburg PA 17837
City State Zip Code
☒ Individual capacity ☐ Official capacity

Defendant No. 2

Name TROUTMAN
 Job or Title (*if known*) Lieutenant
 Shield Number Unknown
 Employer United States Penitentiary
 Address Post office Box 1000
Lewisburg PA 17837
City State Zip Code
☒ Individual capacity ☐ Official capacity

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Defendant No. 3

Name LEONWICZ
 Job or Title (if known) Lieutenant
 Shield Number Unknown At this current time
 Employer United States Penitentiary
 Address Post office Box 1000
Lewisberg PA 17837
City State Zip Code
☒ Individual capacity ☐ Official capacity

Defendant No. 4

Name STUART
 Job or Title (if known) Lieutenant
 Shield Number Unknown
 Employer United States Penitentiary
 Address Post office Box 1000
Lewisberg PA 17837
City State Zip Code
☒ Individual capacity ☐ Official capacity

Defendant No. 5
See Attachment

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

- ☒ Federal officials (a *Bivens* claim)
☐ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials? Plaintiff's 8th Amendment Rights under The "Cruel and Unusual Punishment Clause" of The UNITED STATES CONSTITUTION were violated which cause him Pain, Suffering, and Continuing Emotional Distress

I Attachment To Page #3 For 5th Defendant

Defendant #5.

Name: Haubert

Job or Title: Correctional officer

Shield Number# Unknown At This time

Employer: United States Penitentiary

Address: Post office Box 1000

Lewis Berg, Pennsylvania 17837

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8th Amendment Rights of The U.S. Constitution / 8th Amendment Cruel & Unusual Punishment Clause

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed. Each Named Defendant in Complaint with reckless Disregard And Evil Intent Showed Deliberate Indifference To Plaintiff's Unreasonable Risks of Serious Harm By Denying Him Access To Adequate mental Health Treatment, And Retaliating Against Him in Response To His Mental Health Crisis By Torturing Plaintiff with The Use of Ambulatory And 4 Point Restraints Thus Causing Him Life Long Nerve Damage, and ongoing pain and Suffering AS A Result of The Malicious Abuse on Plaintiff By The Use of Restraints in Response To His Deteriorating Mental Health Condition which he Sought Help For.

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☐ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☐ Convicted and sentenced state prisoner
- ☒ Convicted and sentenced federal prisoner
- ☐ Other (explain) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

~~Re: [illegible text]~~
~~[illegible text]~~

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

United States Penitentiary "Lewisburg" / Special Management Unit Jan 3, 2019 Till Jan 6 2019

IV. Statement of Claim "ATTACHMENT" For section "D" Page 5 of Complaint
"Statement of Facts Underlying All Claims" Page #1

- (#1.) On The Date of January 3, 2019 while housed At Lewisberg Special Management Unit Plaintiff Demontray Ward #45499-379 in The Serious Troubles of Being Seriously Physically Harmed Due To his Deteriorating Mental Health Condition which Caused Him To Attempt Suicide was Denied Access To Adequate Mental Health Treatment By officials Refusing To Place Plaintiff in Self Harm Observation Status After Harming Him self By Cutting Himself on The Arms in Attempt To commit Suicide.
- (#2.) Officer; Haubert on The Date 1/3/2019 In Reference To Plaintiff's ~~suicidal attempt~~ Suicidal Attempt Informed officer; Haubert 4 times of his suicidal Thoughts Before cutting Himself in Attempt To Kill Himself. Officer Haubert Showed Deliberate indifference To Plaintiff's Unreasonable Risks of Serious Harm Because^{#1}. He knew Plaintiff was cutting himself in Attempt To Kill himself Because He was informed By Plaintiff 4 times of his suicidal Thoughts And Refused To And Failed To Get Help The First time He was ~~aware~~ Aware of Plaintiff's Suicidal Attempts.
- (#3.) Lieutenant; Troutman After Being informed By officer; Haubert of Plaintiff's Suicidal Attempts Escorted Plaintiff To Medical For Examination of The Lacerations/Cuts on his Arm which He inflicted Upon Himself in Attempt To commit Suicide Contacted Psychiatric; Doctor; Enigk. Doctor; Enigk After Arriving on The First Floor of D Block where Plaintiff was Placed in The Shower where He would Be Evaluated By Doctor; Enigk For Determination of whether Plaintiff Should Be Placed in Self Harm Observation Status/Special Housing. By B.O.P Policy Procedure when An inmate Attempts To commit Suicide it is Mandatory inmate Be Placed in Self Harm observation Status/Special Housing which Restricts inmates who are suicidal From Clothing or Anything That May Be Used

IV. Statment of Claim "ATTACHMENT" For Section "D" Page 5 of Complaint
Statment of Facts Underlying All Claims" Page #2

- in Connection with The inmate Comitting of Attempting To Comitt Suicide while Recieving Mental Health Crisis Counseling And Evaluations Per Policy Procedure.

(#4). Defendant Doctor; Enigk Stated To Plaintiff " Youre Going To Go Back To Your Cell or #2 Get Placed in Ambulatory Restraints"; Doctor; Enigk Threatened Him with Retaliation of Placing Him in Ambulatory Restraints which was Later Implemented Against Plaintiff As A Form of Torture. Doctor; Enigk wanted To Place Plaintiff in Ambulatory Restraints Because This would Inflict Cruel and Unusual Punishment on Plaintiff As A Retaliatory Response To His Deteriorating Mental Health Condition which Cause Plaintiff To Want To Comitt Suicide.

(#5) Defendant Doctor; Enigk Knew And was Fully Aware of Plaintiff's Mental Health Condition Deteriorating Thus Making Him Want To Comitt Suicide And Failed To Respond Reasonably Because Defendant Refused To Place Plaintiff in Self Harm Observation Status. However After Plaintiff ~~stated~~^{stating} To Defendant That He Still felt suicidal. Doctor; Enigk ordered Lieutenant; Troutman To Place Plaintiff in Hard Ambulatory Restraints until He Doesn't feel suicidal anymore As Retaliation And To inflict Cruel and Unusual Punishment on Plaintiff Because The Restraints when Used in An Abusive and Malicious manner To Punish Plaintiff would Cause Him Extensive Pain & Suffering And Permanent Nerve Damage.

(#6). In Order To Justify The Use of Ambulatory ~~and~~^{and} 4 Point Restraints on Plaintiff Lt; Troutman Informed Lt; Leonwicz To write Plaintiff A Disciplinary infraction For Threatening To Kill Himself which was Later Dismissed/Expunged Due To Plaintiff's Mental Health Condition/Incompetency. ~~In~~ The State of Mind He was in At The time of incident was Unnecessary For Staff To write A disciplinary infraction ~~on~~ Plaintiff. So it was Therefore Expunged

IV. Statement of Claim "Attachment" For Section "D" Page 5 of Complaint "Statement of Facts Underlying All Claims" Page #3

- (#7). Lieutenant; Leonwicz After Being ordered By Lieutenant; Troutman To write Plaintiff a Disciplinary infraction. Placed Him in Ambulatory Restraints with The Malicious intent of causing Plaintiff Pain & Suffering By using The Restraints on him in An Abusive Manner By Placing The Restraints on Plaintiff so tight Around His wrists, waist, and Ankles it caused Plaintiff To Suffer From Permanent Life Long Nerve Damage which he Has Constantly Sought Medical Treatment For since Then.
- (#8.) Lieutenant; Leonwicz, Lt; Stuart, and Lt; Troutman Informed Plaintiff After entering Cell D-102 where Plaintiff was Being Held That They Are Making him Suffer As A Result of His Attempts To Comitt Suicide. Lt; Leonwicz, Lt; Troutman, and Lt; Stuart Showed Deliberate indifference To Plaintiff's Unreasonable Risk of Serious Harm Because
1. They Knew Plaintiff would Suffer irreparable injury By Them Placing The Restraints on Him so tight that it would cause him Life long Nerve Damage To Retaliate Against him For Attempting suicide
 2. They Failed To Respond Reasonably By indulging in Retaliatory Acts To Implement Cruel and Unusual Punishment Against Plaintiff By Abusing him with Restraints with Evil intent To injure him
- (#9.) From The 3rd of January 2019 To 6th of January 2019 Plaintiff Suffered Serious Harm To His Body Due The Malicious Abuse Implemented Against him with Ambulatory and 4 Point Restraints. 1/3/19 At 8:30 PM Plaintiff was Placed in Ambulatory Restraints on 1/4/19 Plaintiff was Placed in 4 Point Restraints 1/5/19 Plaintiff was Placed in Ambulatory Restraints on The 6th of January 2019 Plaintiff was Finally Taken out of Restraints And was Irreparably Harmed Due To The Abuse And Suffered Permanent Nerve Damage As A Result which will cause him Lifelong Pain and suffering Due To Abuse Implemented Against him By Doctor; Eni GK, Lt; Troutman, Lt; Stuart, and Lt; Leonwicz As Retaliation Against him For Attempting To Comitt Suicide Thus Failing To provide him Adequate mental health Treatment.

IV. Statment of Claim " Attachment" For Section "D" Page 5 of Complaint
" Statment of ● Facts Underlying All Claims" Page #4

#10. Plaintiff Has Exhausted All His Administrative Remedies Starting From Institution To Central office Which He Appealed To After Being Denied By Institution, Regional office, And Made His Appeal To Central office which was Denied. Plaintiff As A Result of All The Defendants Actions Suffers irreparable Harm and injuries And suffers From ongoing Pain And Suffering.

C. What date and approximate time did the events giving rise to your claim(s) occur? Jan 3, 2019 to January 6 2019

Starting From Around The initial Time of 7:00 clock A.M on 1/3/2019

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?) See Attachment Next Page/Exhibits As Attachment Pages (1) Through (4)

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive. Plaintiff Suffers From Permanent Nerve Damage in both His wrists And Both His Ankles which Causes shooting Pains To The Point As To where He cant Feel Blood Circulation in several of His fingers And Toes. Plaintiff Has To Constantly seek Medical Treatment For His Pain Because it is ongoing.

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

- (#1.) Plaintiff Requests Compensatory Damages Against Each Defendant Separately And Individually In The Amount of \$385,000 AS A Result of The Physical Injuries He Suffered
- (#2.) Plaintiff Requests Punitive Damages Against Each Defendant Separately And Individually in The Amount of \$395,000 Each Due To The Defendants wreckless Disregard And Evil Intent To Injure Plaintiff
- (#3.) Plaintiff Requests Nominal Damages In The Amount of \$1 dollar Against Each Defendant Separately and Individually For The Violation of His Rights.
- (#4.) Plaintiff Demands Jury Trial on All Issues in Complaint
- (#5.) Plaintiff Request Recovery of All Costs In Connection with This Lawsuit
- (#6.) Plaintiff Requests Declaratory Relief Against Defendants Stating That Their Acts Violated His Rights
- (#7.) Plaintiff Requests Any Additional Relief That This Court Deems Just, Proper, and Equitable

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

- A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s). UNITED STATES PENITENTIARY

"Lewis Berg"

- B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

- C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☐ Yes

☒ No

☐ Do not know

If yes, which claim(s)?

N/A

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- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☐ No

- E. If you did file a grievance:

1. Where did you file the grievance? *Lewisberg, PA, Regional Office, and Central Office*

2. What did you claim in your grievance? *Cruel And Unusual Punishment under The 8th Amendment of The U.S. Constitution*

3. What was the result, if any? *All Grievances was Denied*

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)
Grieved At Institutional Level was Denied, Appealed To Regional office which was Denied. Appealed To Central office which was Denied.

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F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

N/A

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

N/A

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

N/A

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

N/A

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- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court (if federal court, name the district; if state court, name the county and State)

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending? *N/A*

☐ Yes

☐ No

If no, give the approximate date of disposition. _____

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

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☒ Yes☐ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s)

Demontray Ward #45499-379

Defendant(s)

United States, officer, Wolfgang, officer, Hoffman, officer, Johnson, RN Lori Hartzel MD, Andrew Edinger, Lufold, officer, Fisher, officer, Holmes, officer, Ritz

2. Court (if federal court, name the district; if state court, name the county and State)

Middle District of Pennsylvania

3. Docket or index number 1:17-cv-1685

4. Name of Judge assigned to your case J. Jones

5. Approximate date of filing lawsuit

September 18, 2017

6. Is the case still pending?

☐ Yes

☒ No

If no, give the approximate date of disposition

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?) Case was Dismissed For failure To Exhaust Administrative Remedies and Failure To comply with Local Rules of Civil Procedure By providing Brief with Memorandum of Law/Case Citations

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IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 4/6/20

Signature of Plaintiff

Printed Name of Plaintiff

Prison Identification #

Prison Address

Demontray Ward
Demontray Ward #45499-379
#45499
A.W.S.P. Thomson P.O. Box 1002
Thomson IL 61285
City State Zip Code

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City State Zip Code

Telephone Number

E-mail Address

Demon+ray Ward #45499-379
Administrative United States Penitentiary
Post office Box 1002
Thomson, IL 61285

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PER [Signature]
DEPUTY CLERK